**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD**

**HON'BLE Mr. JUSTICE R. SUBHASH REDDY**

**Writ Petition No.20363 of 1997**

**Dated: March 14, 2007**

**Between:**

Md. Naseeruddin, S/o. Basheeruddin, aged about 37 years, Nakrekal, Nalgonda District.

… Petitioner

And

The Managing Director, APSRTC., Musheerabad, Hyderabad, and another.

… Respondents

## Order:

This Writ Petition has been filed seeking Mandamus to declare the action of respondents in not appointing the petitioner to the post of Driver as illegal and arbitrary and a consequential direction to the respondents to appoint him in the said post.

2. Heard learned counsel for the petitioner and learned Standing Counsel appearing on behalf of respondents.

3. During the year 1988, selections were made in the Andhra Pradesh State Road Transport Corporation to the post of Driver in the erstwhile Khammam Division. Though petitioner was interviewed in the month of March, 1988, when he was sent to the R.T.C. Hospital at Tarnaka, for medical examination, he was informed that he was unfit to discharge the duties of a Driver. Petitioner claims that he was referred to Nizam Institute of Medical Sciences, which certified that he was fit to be appointed as Driver. It is stated that challenging the inaction of the second respondent in not appointing him as Driver even though he was declared fit, petitioner filed a suit in O.S.No.694 of 1998 on the file of the Principal District Munsif, Khammam, seeking a declaration that he is fit to be appointed as Driver and also for mandatory injunction to direct respondents to accept the fitness certificate issued by N.I.M.S. and to issue orders appointing him as Driver. The same was decreed in part by judgment and decree dated 30-03-1991 declaring that the certificate obtained by the petitioner is a competent certificate. Though the respondent-Corporation filed an appeal against the said judgment and decree, it ended in dismissal.

4. The case of the petitioner is that as much as he was selected and interviewed by the respondents for the post of Driver and in view of the decree obtained by him declaring that he is fit to be appointed as Driver, respondents ought to have considered his case in proper perspective and appointed him as Driver.

5. First respondent has filed counter affidavit resisting the claim of the petitioner. It is stated that after the judgment and decree of the civil court, petitioner was directed to report before Medical Board at Tarnaka Hospital, Hyderabad and on 01-04-1997, petitioner had attended the medical examination at the aforesaid place. It is stated

that the Board perused the documents submitted by the petitioner and found some corrections on the medical certificate issued by Dr. B. Soma Raju, Cardiologist, NIMS Hospital; as such petitioner was asked to produce '2D Echo report and medical certificate with attestation, however, petitioner failed to turn up thereafter.

6. In this case, it is to be seen that though petitioner has obtained a declaration from the civil court, selections to the post of Driver were made long back, during the year 1988. Based on the selections made in 1988, petitioner cannot seek appointment to the post of Driver, at this stage. Further, in the counter affidavit, it is stated that no regular appointments are being made and only contract appointments are being made, that too cases of persons below 35 years are being considered. As much as petitioner is around 47 years of age at this point of time, no positive direction can be issued to appoint the petitioner straightaway in the absence of any appointments now being made and also further certification with regard to the health condition of the petitioner. Hence, no direction as sought for can be issued at this stage.

7. Writ Petition is devoid of merits and is accordingly dismissed. No order as to costs.

**JUSTICE R. SUBHASH REDDY.**

March 14, 2007
**MRR**